

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHARLOTTE WINELAND, Individually,
and SUSAN WINELAND, as Personal
Representative of the Estate of JOHN DALE
WINELAND, deceased,

Plaintiffs,

v.

AIR & LIQUID SYSTEMS
CORPORATION, *et al.*,

Defendants.

Cause No. C19-0793RSL

ORDER

This matter comes before the Court on “Defendant Puget Sound Commerce Center, Inc.’s *Daubert* Motion to Exclude Expert Testimony of Captain Arnold Moore; Steven Paskal, CIH; David Zhang, M.D.; and Charles Ay.” Dkt. # 344. Puget Sound Commerce Center, f/k/a Todd Shipyard, clarified in reply that its objections to Dr. Zhang and Mr. Paskal’s opinions are not based on the absence of a cumulative exposure calculation, but rather on the fact that the experts leap from evidence of exposure (as provided by Captain Moore and Mr. Ay) to the conclusion that the exposure was a substantial factor in the development of Mr. Wineland’s mesothelioma. Dkt. # 506 at 4. Plaintiffs will be given an opportunity to respond to this argument, which neither they nor the Court recognized or appreciated when reviewing the moving papers.

1 The Clerk of Court is directed to renote Dkt. # 344 on the Court's calendar for Friday,
2 November 20, 2020. Plaintiffs may, on or before the note date, file a sur-reply of no more than
3 twelve pages addressing the reliability of Dr. Zhang and Mr. Paskal's "substantial contributing
4 factor" opinions in light of the Ninth Circuit's rejection of the "every exposure" theory of
5 causation in *McIndoe v. Huntington Ingalls Inc.*, 817 F.3d 1170, 1176-77 (9th Cir. 2016).
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8 Dated this 10th day of November, 2020.

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10 Robert S. Lasnik
11 United States District Judge
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